



CANNON BUILDING
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STATE OF DELAWARE
COUNCIL ON REAL ESTATE APPRAISERS

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PUBLIC MEETING MINUTES:	COUNCIL ON REAL ESTATE APPRAISERS
MEETING DATE AND TIME:	Thursday, January 22, 2015 at 9:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , 2nd floor of the Cannon Building
MINUTES APPROVED:	March 17, 2015

Members Present

Lynn Baker, Professional Member, Chair
Douglas Nickel, Professional Member, Vice Chair
Ronald Mandato, Professional Member
Georgianna Trietley, Professional Member
Kevin Gillis, Banking Member
Frank Long, Public Member
Patricia Ennis, Public Member

Division Staff/Deputy Attorney General

Kevin Maloney, Deputy Attorney General
Amanda McAtee, Administrative Specialist II

Members Absent

Public Present

Anne Bernhardt
Earl Loomis
Joe Napoletano
Ed Falkowski III
Beverly Wilson
Osborne Beall
Steven Hopkins

Call to Order

Mr. Baker called the meeting to order at 9:35 a.m.

Review and Approval of Minutes

November 18, 2014

The Council reviewed the minutes from the November 18, 2014. Ms. Trietley made a motion, seconded by Mr. Long, to approve the minutes as submitted. By unanimous vote, the motion carried.

December 16, 2014 – Special Meeting

The Council reviewed the minutes from the December 16, 2014, special meeting. Mr. Nickel made a motion, seconded by Mr. Mandato, to approve the minutes as submitted. By unanimous vote, the motion carried.

Unfinished Business

Status of Complaints:

Mr. Baker stated that the Council had received the following complaint updates:

19-20-12 – Dismissed by the Attorney General's Office for the following reason: Insufficient Evidence

19-05-14 – Dismissed by the Division of Professional Regulation

19-06-14 – Dismissed by the Division of Professional Regulation

19-04-14 – Forwarded to Attorney General's Office for Review

19-11-12 – Disciplinary Hearing Scheduled for Next Council Meeting, February 17, 2015

19-09-12 & 19-07-13 – Disciplinary Hearing Scheduled with Administrative Hearing Officer for January 26, 2015

Review and Deliberation Council Orders

Andrew Smith (non-disciplinary)

The Council reviewed and signed the final non-disciplinary order for Andrew Smith.

New Business

New Complaints

Mr. Baker stated that the Council had received one new complaint, 19-07-14.

Ratification of Issued Licenses

Mr. Nickel made a motion, seconded by Mr. Mandato, to approve the ratification of the issued licenses listed below. By unanimous vote, the motion carried.

Neal, Randy W. CGRPA

Hardej, Adam J. CGRPA

Pomykacz, Mark F. CGRPA

Rasmussen, Gerald V. CGRPA

Webb, James M CRRPA

Bauer, Benjamin R LRPA

Steel, John H Appraiser Trainee

Willson, Susan K. Certified Assessor

Thoms, Shirley E. Certified Assessor

Zistl, John B., III Certified Assessor

Shields, Thomas J. Temporary Practice Permit

Shields, Thomas J. Temporary Practice Permit

McArdle, David Temporary Practice Permit

DeMilleret, Roland Temporary Practice Permit

Guiney, Cornelius Joseph Temporary Practice Permit

Owen, Nina A. Temporary Practice Permit

Ratification of Issued AMC Permits

Mr. Mandato made a motion, seconded by Mr. Nickel, to approve the ratification of the issued AMC permits listed below. By unanimous vote, the motion carried.

Appraisal Nation, LLC
Lincoln Appraisal & Settlement Services
The Property Sciences Group, Inc.
Appraisal and Valuation Services, LLC
Valustrust Solutions, LLC
Core Valuation Management Inc.
Title Source, Inc. dba TSI Appraisal
Accusured Management, LLC
Chestnut Appraisal Management Limited Liability Company
Coestervms.com Inc.
Rush My Appraisal, Inc.
SWBC Lending Solutions, LLC
Fidelity Residential Solutions, Inc.
Universal Real Estate Services, Inc.
ISGN Solutions, Inc.
WJB Mortgage Services, LLC.
Class Appraisal, Inc.

Review of Application for Certified Assessor – none

Review of Application for AMC – none

Review of Application for Examination – none

Review of Application for Trainee – none

Review of Application for Exemption – none

Review of Application for Reciprocity – none

Hearing Officer Recommendations

Stephanie Laios 19-09-13

The Council reviewed the hearing officer recommendation for Stephanie Laios in advance of the Council meeting. There was no additional discussion; Mr. Mandato made motion, seconded by Mr. Nickel, to approve the hearing office recommendation of Stephanie Laios, case 19-09-13. By unanimous vote, the motion carried.

Joseph Napoletano 19-13-11

The Council reviewed the hearing officer recommendation for Joseph Napoletano in advance of the Council meeting.

Mr. Maloney stated that Mr. Napoletano was present at the meeting and that Council would give him ten minutes to address the Council and to keep in mind that the findings of fact could not be changed. Mr. Maloney stated that there were two emails sent to some members of Council and he had Mr. Napoletano mark the two emails as licensee exhibit 1 and 2.

Mr. Napoletano stated that he prepared an appraisal for multiple people including himself, everything was consistent and the same. Mr. Maloney interrupted and stated that the Council had the findings of facts in front of them and that Mr. Napoletano could address certain facts if it was necessary as it related to the sanction he could be granted some latitude.

Mr. Napoletano stated that he had appeared on his own behalf and had submitted all of the appraisals including his own for a tax appeal but had stated in the appraisal that it was his own home. He stated that he had integrity in the report and had researched it adequately and that this was a complaint against his character and that he did not mislead anyone.

Mr. Maloney stated that the only appropriate questions from Council would be in regard to the recommended sanctions. Mr. Baker questioned what Mr. Napoletano thought about sanctions.

Mr. Napoletano stated that he felt that the complaint should have been dismissed and that he had accepted a consent agreement for a monetary fine because it was more cost effective than hiring a lawyer. When the consent agreement was rejected and suspension was recommended he appeared for a hearing. Mr. Napoletano stated that he had completed this appraisal for 182 other people pro bono, they had not complained, and that the public benefited from his work. Mr. Napoletano completed his testimony.

Mr. Mandato stated that he felt that there were 183 people involved in this appraisal for tax reduction and he should have recused himself and made it 182. Mr. Mandato stated that it looks like he did benefit from a tax reduction along with 182 other unit owners.

Mr. Gillis questioned if Mr. Napoletano had a right to make an appeal, with the fact that as an appraiser he had tools to more effectively make that appeal, and as an appraiser was he allowed to represent himself in front of a committee, was he submitting an appraisal or an appeal.

Mr. Nickel stated that in his submitted appraisal he stated that he did not have an interest or bias when in fact one unit was his own property along the other 182 units because it's owned in condominium form, and therefore he had an interest in the property because he owned one of the units and therefore his judgment if biased.

Mr. Gillis was unsure if he made a mistake in the report in representing his ownership in the appraisal report.

Mr. Mandato stated that there was a statement in the body of the certification page that stated that the appraiser did not have an interest in the property and he could have made a disclaimer in the report to state that he owned one unit and he was preparing the report for 182 units and not 183, that perhaps could have worked, but that he did not make such a disclaimer and regardless in the end he is still one of the 183 and if there was a tax reduction then he still benefits from that.

Mr. Nickel stated that if he wanted to receive a tax deduction on his property and did his own appraisal and took it to Mr. Gillis that Mr. Gillis would not accept the appraisal. Mr. Gillis agreed with Mr. Nickel's statement. Mr. Nickel stated that it was a similar situation.

Mr. Baker stated that completing an appraisal on your own property violated regulations. Mr. Nickel stated that Mr. Napoletano had interest in this entire condominium complex because he owned a unit within it.

Mr. Baker stated that Mr. Napoletano wished to make an additional statement. Mr. Maloney stated that Council was in deliberation and could not hear additional statements from Mr. Napoletano.

Mr. Nickel made a motion, seconded by Mr. Mandato, to accept the hearing officer recommendations regarding Joseph Napoletano, case 19-13-11. The motion carried by majority, with Ms. Trietley recused.

Review and Deliberation of Consent Agreements – none

Review of Application for Temporary Practice Permit – none

Experience Log Assignment for Report Selection and Review

William Salus

Ms. Trietley was assigned Mr. Salus's log for review.

Michael Marino

Mr. Baker stated that the education requirements for licensure changed with the January 1, 2015 Appraiser Qualifications Board (AQB) change and Mr. Marino no longer met the education requirements necessary for licensure because he did not have a bachelor's degree. Mr. Nickel made a motion, seconded by Ms. Trietley to table the application and have Ms. McAtee contact the licensee to obtain additional information. By unanimous vote, the motion carried.

Ms. McAtee requested that the agenda be amended to include the re-review of the applications of Judith Magann and Thomas Amatuzio with regards to education requirements. Mr. Nickel made a motion, seconded by Ms. Trietley to amend agenda to discuss applications of Judith Magann and Thomas Amatuzio. By unanimous vote, the motion carried.

Ms. McAtee stated that she reviewed applications that Council had approved to sit for various licensure upgrade examinations and determined that the application of Judith Magann and Thomas Amatuzio did not contain evidence of being awarded a bachelor's degree and as of January 1, 2015 they no longer meet AQB licensing requirements.

Ms. Trietley made a motion, seconded by Mr. Mandato, to revoke the exam authorization of Judith Magann and Thomas Amatuzio and to request that Ms. McAtee contact them to determine if they meet the 2015 AQB education requirements for licensure. By unanimous vote, the motion carried.

Continuing Education Activities for Approval

Mr. Nickel made a motion, seconded by Mr. Mandato, to approve the continuing education listed below with the exception of agenda item, 4.14.2, for the Delaware Chapter of the Appraisal Institute, which was approved contingent on receiving a timed outline. By unanimous vote, the motion carried.

McKissock

Work File: Your Best Defense Against an Offense, 5 hours CE (classroom)

Delaware Chapter of the Appraisal Institute

Creating Real Estate Value through "Place-Making" Economic Development Strategies, 2 hours CE (classroom)

NAIFA

Residential Appraising in a Changing Market, 7 hours CE (classroom)

Allterra Group, LLC.

Basic Charts and Graphs, 5 hours CE (online)

Appraisal Institute

Two-Day Advanced Income Capitalization Part A, 15 hours CE w/ exam or 14 hours CE w/o exam (classroom)

Two-Day Advanced Income Capitalization Part B, 15 hours CE w/ exam or 14 hours CE w/o exam (classroom)

American Society of Farm Managers and Rural Appraisers

Basic Appraisal Procedures (A102), 30 hours QE / 28 hours CE (classroom)

Loomis Appraisal Company

The Well Documented Appraisal Report, 7CE (classroom)

The Appraisal of Historic Residences, 7CE (classroom)

Appraisal Institute

Contract or Effective Rent: Finding the Real Rent, 4CE (classroom)

Appraisal Subcommittee Compliance Review

Claire Brooks introduced herself and Jenny Tidwell from the Appraisal Subcommittee (ASC) and explained that they had been at the Division of Professional Regulation for the past few days reviewing files for their biennial audit. Ms. Brooks provided background information on the ASC, outlined their functions, and provided Council members with literature. Ms. Brooks provided the Council an overview of their findings in order by policy statement.

Policy Statement 1 – Statutes, Regulations, Policies, and Procedures

Ms. Brooks stated that the only thing they discovered was something that was already being addressed and that was the Council had a pending rules and regulations to officially adopt the 2015 AQB requirements for the trainee/supervisor course requirement.

Ms. Brooks stated that an area of concern on their report would be the two vacancies on Council. Ms. Brooks stated that they could write letters to try and help get the vacancies filled.

Policy Statement 2 – Temporary Practice

Ms. Brooks stated that before arriving onsite she asked for a log of temporary practice applications and selected random applications for review. Ms. Brooks stated that the applications were reviewed to make sure the state was not charging excessive fees, they permits were being issued within five business days of receipt, on an assignment only basis, and if they were not issued within five business days there was documented reasons. Ms. Brooks stated that no issues were found.

Ms. Brooks did note that the temporary practice fees were very low, that states can charge up to \$250 per permit, and must issue at least two permits per individual per year. Ms. Brooks stated if Council had concerns regarding too many temporary permits issued to one individual that the Division could consider raising the fee or the Council could consider limiting the amount of temporary permits issued per year.

Policy Statement 3 – National Registry

Ms. Brooks stated that no issues were found under the national registry.

Policy Statement 4 – Application Process

Ms. Brooks stated that in her sampling she found one applicant that was deficient in qualifying education. Ms. Brooks stated that she hoped it was an easy fix, perhaps that applicant forgot to include the certificate, if the applicant didn't take course then the state would have to request that the course be completed, either way the situation should be resolved within sixty days.

Policy Statement 5 – Reciprocity

Ms. Brooks stated that states grant reciprocity as long as an applicant has a credential in good standing with their home state, has a credential in a home state that is in good standing with the ASC, and the home state meets the licensing requirements of the State of Delaware.

Ms. Brooks stated that no issues were found under reciprocity.

Policy Statement 6 – Continuing Education

Ms. Brooks stated that they found two small issues in the area of continuing education in that she found a few courses that did not include a timed outline and she had identified one course that was approved for qualifying education when it was only eight hours in length and it was approved for continuing education as well, so more than likely it was a typo and just needed to be removed from qualifying education.

Policy Statement 7 – Enforcement

Ms. Brooks stated that state appraiser programs usually have issues with enforcement because of the strict one year time period for complaints to be completed. Delaware was found to be slightly out of compliance with a total of 21 complaints received, currently 9 were open, and out of the 9 open complaints, 3 were over 1 year old, 2 were over 2 years old, and 1 open case was over 3 years old.

Ms. Brooks stated that she looked and saw no clear rational for how a case went from alleged violations to being dismissed, in the future the ASC would like to see more rational in the case file on how the conclusion was made to issue dismissal.

Ms. Brooks stated that the State of Texas had great success in contingent dismissals, in cases that were not of egregious violations, they offered the respondent an opportunity to take remedial continuing education or to work under a mentor and if they followed through the case was dismissed. Ms. Tidwell stated that they were working with the State of Delaware to help develop more tools to help with cases in addition to the current process. Ms. Tidwell stated that cases with egregious violations were being handled well and cases where there were no violations were being handled well but the cases in the middle needed help.

Ms. Tidwell stated that Ms. McAtee does a wonderful job at reviewing applications and the few mistakes that were found were easily fixable.

Ms. Brooks stated that this year the State of Delaware only had 9 outstanding complaints compared to last audit when there was 28 outstanding complaints, so the State has done a tremendous job in completing cases in a timelier manner.

Mr. Maloney questioned if there was an error in the AQB 2015 criteria handbook concerning background checks. Ms. Brooks stated that on page 53 and 54 of the 2015 criteria they made it mandatory for all states to do background checks and then it was discovered that too many requirements were made and it was too hard to implement in all jurisdictions. Ms. Tidwell stated that the background check requirement was now delayed and that the new language was developed and was circulating for comment. Ms. Brooks stated that some states including Delaware had adopted the background check requirement and that was fine because the requirement will be forthcoming from the AQB.

Mr. Mandato questioned if the Attorney General's office was being addressed in the report with the way cases were closed. Ms. Tidwell stated that they were including in the report that they were concerned that the rational for closing cases was not detailed in nature. Ms. Brooks stated that if it was a matter of educating the Attorney General's office, they have had cases where they have gone to states and educated prosecutors and investigators.

David Mangler stated that the Division was going to be working with the Attorney General's office to resolve things and there was a legal rational for what was disclosed publically regarding closed cases.

Correspondence

Weichert

Mr. Maloney stated that this Council did not have the ability to issue advisory opinions and that this letter had attached statutes from other states that specifically did not include relocation companies and that the other attachments were safe harbor declarations.

Mr. Maloney stated that a safe harbor declaration could not be issued by Council because it would be an advisory opinion. Mr. Maloney stated that he should get a legal opinion if he was exempt under the statute and if his legal counsel determined that he was not that he could take steps to change legislation.

Other Business before the Council (for discussion only)

Public Comment

Beverly Wilson stated that the Delaware Association of Appraisers (DAA) elected a new board and introduced them to Council. Ms. Wilson stated that the DAA was changing their meeting dates to be held after the Council's monthly meeting date. Ms. Wilson thanked the ASC for coming to the Council meeting and agreed that they were very fortunate to have Ms. McAtee on staff to assist the Council.

Anne Bernhardt questioned if Council had a process in place for AMCs that charge upload fees. Mr. Mandato stated that unfortunately that has become a price of business for the appraiser. Ms. Bernhardt questioned what would be the process for an appraiser that is 80 days late in getting payment from an AMC. Ms. Bernhardt stated that there were some AMCs that charged upload fees that ranged from \$10-\$20 per report and she did not see that rationale for an appraiser to pay that fee, but she had now added the upload fee to her charged fee to compensate. Mr. Baker stated that unfortunately it was a cost of doing business and that she could file a complaint for the non-payment since the statute stated that the appraiser was to be paid within 45 days.

Osborne "Preston" Beall stated that AMCs were requiring criminal background checks (CBCs) and questioned it would work with Council. Ms. McAtee stated that CBCs were only required initial licensing, upgrading a license, or reciprocity of a license but would not be required as part of license renewal or temporary applications. The CBCs sent here to the Division for licensing could not be forwarded to any other entity and could not be forwarded to an AMC or other employer. If an AMC was requiring them the appraiser would have to have a CBC completed and sent directly to the AMC.

Next Meeting

The next meeting is scheduled for February 17, 2015 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

Adjournment

Mr. Mandato made a motion, seconded by Mr. Gillis, to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 9:50 a.m. The motion carried unanimously.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. McAtee', with a stylized flourish at the end.

Amanda McAtee
Administrative Specialist II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Council members and the public in supplementing their personal notes and recall for presentations